

## **REMARKS**

### **I. Status of the claims**

Claims 11-13 are pending in this application.

### **II. Information Disclosure Statement**

Applicants filed an Information Disclosure Statement with this continuation application on July 25, 2003. In response to Applicants' request that the Examiner return the initialed PTO 1449 form in the next communication from the Office, the Examiner stated that "the form does not appear to have been made of record in the PTO's electronic file." (Office Action at p. 2.) Accordingly, Applicants submit herewith a copy of the as-filed IDS and 6 references, along with a copy of the date-stamped postcard. The other cited references are of record and were considered by the Examiner in the parent application, Application No. 09/189,866. Applicants request the Examiner to consider the listed documents and indicate that they were considered by making appropriate notations on the attached form.

### **II. Obviousness-type double patenting rejection**

Claims 11-13 were rejected on the ground of nonstatutory obviousness-type double patenting over claims 8-13 and 1-5 of U.S. Patent Nos. 6,133,301 ("the '301 patent") and 5,728,721 ("the '721 patent") , respectively. In support of the rejection, the Examiner stated that "[t]he above rejection may be considered provisional pending approval of the TD filed 12/15/06 over the '301 patent." (Office Action at p. 2.) However, that TD was approved on 12/15/06. See "Terminal Disclaimer Approval form

used within the USPTO" retrieved from public PAIR in this case, a copy of which is submitted herewith.

Applicants enclose herewith a Terminal Disclaimer over the '721 patent. The filing of this Terminal Disclaimer obviates the rejection, but does not constitute an admission of the propriety of the rejection. See MPEP § 804.02.


If a check for the required fee is not filed concurrently herewith or if there are any additional fees due in connection with the filing of this Terminal Disclaimer, please charge the fees to our Deposit Account No. 06-0916.

The undersigned is an attorney of record.

Respectfully submitted,

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By:   
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